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Human rights situation in Palestine and other occupied Arab territories

Human rights situation in the Occupied Palestinian Territory, including East Jerusalem

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 28/27 on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. It presents the human rights situation through an analysis of how the occupation and associated measures restrict freedom of movement, and examines the impact of those restrictions on Palestinians' enjoyment of their economic, social and cultural rights.

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I. Introduction

1. The present report, which covers the period from 1 November 2014 to 31 October 2015, assesses the implementation of Human Rights Council resolution 28/27. It is based on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities in the Occupied Palestinian Territory. It also draws on information obtained from Israeli and Palestinian non-governmental organizations (NGOs) and from media sources.

2. In the present report, the human rights situation is viewed through the lens of the ongoing restrictions on the right to freedom of movement in the Occupied Palestinian Territory and their impact on the enjoyment of a wide range of other human rights. The report does not provide a comprehensive account of all human rights concerns in the Occupied Palestinian Territory. It should be read in conjunction with the reports of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan (A/70/351) and on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/70/421), as well as the reports of the Secretary-General (A/HRC/31/43) and the High Commissioner (A/HRC/31/40) before the Human Rights Council at its thirty-first session.

II. Legal background

3. International humanitarian law and international human rights law are applicable in the Occupied Palestinian Territory. The detailed analysis of the applicable legal framework, including the basis of the legal obligations of the duty bearers, presented in the report of the High Commissioner on the implementation of Council resolution S-9/1 (see A/HRC/12/37, paras. 5-9) and the 2014 report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (see A/69/347, paras. 3-6), remains valid.

4. Freedom of movement is guaranteed under international human rights law[1] and international humanitarian law.[2] Israel, as the occupying Power, has an obligation to facilitate the freedom of movement of persons residing in the Occupied Palestinian Territory. Palestinian duty bearers too are obliged to respect and ensure freedom of movement.

5. While certain restrictions on freedom of movement are allowed under international law, including for reasons of security,[3] they must be strictly necessary for that purpose, proportionate and non-discriminatory.[4]

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[1] See the International Covenant on Civil and Political Rights, art. 12; and the Universal Declaration of Human Rights, art. 13.

[2] See the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), art. 27; and the 1958 commentary of the International Committee of the Red Cross on that same article.

[3] See the Fourth Geneva Convention, arts. 27 and 64 (2); the 1958 commentary of the International Committee of the Red Cross on that same article; and the Convention respecting the Laws and Customs of War on Land, annex, art. 43.

[4] See the advisory opinion of the International Court of Justice on the legal consequences of the construction of the wall in the Occupied Palestinian Territory, paras. 135-137.

6. Freedom of movement is also a prerequisite for the enjoyment of a broad range of civil, political, economic, social and cultural rights. The exercise of some rights, such as the rights to work, health and education, depends to a large extent on the ability to move freely and to choose one's residence. Thus, restrictions to freedom of movement can lead to limitations on a range of other human rights.[5]

7. Israel has positive obligations under both international humanitarian law and human rights law. Under international humanitarian law, the occupying Power retains positive obligations to ensure the welfare of the population, including the provision of medical supplies.[6] The principle of non-discrimination[7] is also relevant, especially in relation to the differential treatment of settlers and Palestinians living in the Occupied Palestinian Territory.

III. Restrictions on freedom of movement and their impact on human rights

A. Introduction

8. During the reporting period, the human rights situation in the Occupied Palestinian Territory remained difficult, and was characterized by violations of a range of rights. Long-standing restrictions on free movement between Gaza and the West Bank and within the West Bank exacerbated the situation.

9. In the Oslo Accords it is provided that, "without derogating from Israel's security powers and responsibilities", the movement of people and vehicles in the West Bank "will be free and normal, and shall not need to be effected through checkpoints or roadblocks". Furthermore, it is recognized that the West Bank and Gaza should be maintained as a "single territorial unit … respecting and preserving without obstacles, normal and smooth movement of people".

10. During the reporting period, movement restrictions remained in place, many of them in contradiction with previous agreements and international law. The restrictions have contributed to a fragmentation of the Occupied Palestinian Territory to a point where freedom of movement is severely impeded.

11. The current situation must be reversed. In his previous report, the Secretary-General noted that human rights violations by all duty bearers were driving the conflict in an ever-worsening cycle of violence (see A/HRC/28/45, para. 8). Movement restrictions undermine individuals' rights to health care, work, education and family life, and result in the rupture of social, economic, cultural and family ties. Cumulatively, these violations undermine the right of Palestinians to self-determination and to an adequate standard of living.

[5] Ibid., paras. 133-134.

[6] Fourth Geneva Convention.

[7] See the International Covenant on Economic, Social and Cultural Rights, art. 2 (1); and the International Covenant on Civil and Political Rights, arts. 2 (1) and 26.

B. Israeli restrictions on the freedom of movement of Palestinians

1. Administrative measures restricting freedom of movement

12. Palestinians' freedom of movement is restricted through a complex and multilayered system of administrative, bureaucratic and physical constraints that permeate almost all facets of everyday life.

13. Although the Ministry of the Interior of the State of Palestine issues identity cards for Palestinians on the basis of the Palestinian population registry, Israel retains the power to approve or reject all changes of address and permanent residency applications. In 2000, with the outbreak of the second intifada, Israel suspended updates to the register. Attempts to resolve the large backlog of applications between 2007 and 2009, and again in 2011,[8] had limited impact (see A/68/502, para. 9).

14. The permit regime allows Israeli authorities to limit and control Palestinians' movement in the Occupied Palestinian Territory beyond their immediate residential area. This permit regime dates back to the cancellation by Israel, during the first intifada, of the "general exit permit", which had allowed Palestinians to move freely between Gaza, the West Bank and Israel.[9] Since then, Palestinian residents of the Occupied Palestinian Territory are required to have individual permits to enter Israel and East Jerusalem. Following the outbreak of the second intifada in 2000, Israel further tightened movement restrictions, requiring Palestinians to obtain permits to cross between Gaza and the West Bank.[10] Permits are also required to enter and remain in large areas inside the West Bank, including the so-called "seam zone".[11]

15. The requirements for obtaining a permit are set out in protocols and procedures issued by the Israeli authorities, most of which have not been made public until recently. Following a series of freedom of information petitions filed by the Israeli NGO Gisha, several procedures have been posted on the website of the Coordination of Government Activities in the Territories Unit (COGAT) but a number remain unavailable to the public.[12] Moreover, of those published, only some have been translated into Arabic. As a result, both the procedures and the criteria by which applications are evaluated remain unclear to many applicants, most of whom read and understand Arabic.[13]

16. During the reporting period, COGAT eased requirements for selected groups, including by authorizing men over the age of 55 and women over the age of 50 from the West Bank to enter East Jerusalem or Israel without a permit.[14] In June, for the first time since the second intifada broke out in 2000, the Israeli authorities reportedly allowed some 100 Palestinian doctors from the West Bank to drive their cars into East Jerusalem and Israel.[15] Movement restrictions were also eased during Ramadan when exceptions for

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[8] See www.pmo.gov.il/English/MediaCenter/Events/Pages/eventblair040211.aspx.

[9] B'Tselem and HaMoked, *One Big Prison: Freedom of Movement to and from the Gaza Strip on the Eve of the Disengagement Plan*, 2005, p. 9.

[10] Ibid.

[11] B'Tselem, *Ground to a Halt: Denial of Palestinians' Freedom of Movement in the West Bank* (2007), pp. 24-25. The "seam zone" is the section of Palestinian land located between the wall and the 1949 armistice line that was declared "closed" following construction of the wall.

[12] Gisha, "Procedures and policies", 2015. Available from www.gisha.org/legal/procedures-and-protocols.

[13] Ibid.

[14] COGAT, "Status of permits for the entry into Israel of Palestinians, for overseas departures and the crossing points between Judea and Samaria and the Gaza Strip" (November 2015).

[15] Y-Net News, "Israel increases relief measures to Palestinians in the West Bank," June 14, 2015.

permit requirements were extended on Fridays to men over 40 and boys under 13 and to all women and girls, although some of those steps were revoked following unrest in July.[16]

17. The monthly quota of merchants allowed to leave Gaza during the reporting period was raised from 3,000 to 5,000 and the daily number of exits increased from 400 to 800.[17] The quota of Palestinian patients allowed to exit Gaza for medical treatment in Israel was raised from 80 to 120 per day. Israeli authorities also eased restrictions on the passage of Palestinian athletes from Gaza. Thus, in March 2015, 46 runners from Gaza were granted permits to enter the West Bank to take part in the annual Palestine Marathon.[18] During Ramadan, 500 Palestinians from Gaza were given a permit to travel to participate in prayers at Al-Aqsa Mosque, in Jerusalem.[19] While those measures are welcome, they are unlikely to lead, by themselves, to a long-lasting improvement as long as the permit regime remains in place.

18. Over the years, tens of thousands of Palestinians who have sought to enter Israel, Israeli settlements and the "seam zone", or to go abroad through the Allenby crossing to Jordan, have had their permits rescinded or their applications rejected after being blacklisted by the Israel Security Agency.[20] No reasons are given for the rejection, and restrictions are usually instituted without prior warning. As a result, many Palestinians only learn about the restrictions when they attempt to cross a checkpoint and are blocked.[21]

19. The Israeli NGO Machsom Watch assists blacklisted Palestinians in lodging appeals with the District Coordination Office.[22] In 59 per cent of the cases handled in 2014, the organization was able to remove individuals from the blacklist.[23] This high rate of successful challenges raises questions about the overall arbitrariness of the system.

20. Freedom of movement is a human right, yet the individual permit regime makes it a privilege to be granted or denied by Israeli authorities as an exception to the norm. While protection of national security may justify some restrictions in specific circumstances, the requirement that applicants meet narrowly defined criteria, such as visiting a sick relative or requiring hospital treatment, constitutes a fundamental breach of the International Covenant on Civil and Political Rights. The relation between rights and restrictions must not be reversed, and freedom of movement must not be made dependent on any particular purpose or reason.[24]

2. Restrictions on freedom of movement in the West Bank, including East Jerusalem

21. Movement by Palestinians within the West Bank is restricted by a system of checkpoint and permit requirements, as well as by the expansion of settlements and related

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[16] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", July 2015, p. 6.

[17] See http://gaza.ochaopt.org/2015/02/further-easing-of-criteria-and-quotas-for israeli-permits-to-exit-gaza/.

[18] Gisha, "Forty-six runners exited this morning from Gaza", March 2015.

[19] Agence France Presse, "Thousands pray at Jerusalem's Al-Aqsa for Ramadan", 19 June 2015.

[20] In addition, tens of thousands of Palestinians have been blacklisted by the police, usually punitively, after having entered Israel without a valid permit. Yet others are administratively blacklisted, for example for unpaid fines. Machsom Watch, "Year-end report, January-December 2014", January 2015, pp. 16-18.

[21] Ibid., p. 16.

[22] The District Coordination Office is the Israeli governing body that operates in the West Bank. It was established in order to carry out practical functions within the Occupied Palestinian Territories.

[23] Machsom Watch, "Year-end report, January-December 2014", January 2015, p. 17.

[24] See Human Rights Committee general comment No. 27 (1999) on freedom of movement, paras. 5 and 13.

infrastructure. The two main areas in the West Bank that most Palestinians cannot access without a permit are the area west of the wall, known as the "seam zone", and East Jerusalem.

Movement restrictions linked to settlements and other closed areas

22. A number of movement restrictions are linked to the presence of Israeli settlements in Area C and East Jerusalem. There are approximately 142 settlements in the West Bank, including East Jerusalem.[25] Some restrictions on Palestinians' freedom of movement have been justified by the Israeli authorities as a means of protecting settlers and facilitating their movement throughout the West Bank. They include restrictions on Palestinians' access to private land located in the vicinity of settlements and limitations on Palestinians' use of roads used by Israeli settlers (see A/67/375 and A/HRC/31/43).

23. Particularly severe restrictions are imposed on the movement of Palestinians who live in close proximity to Israeli settlers. In the H2 area of Hebron, where approximately 6,000 Palestinians live near settlements, the vehicular and, in some cases, pedestrian movement has been restricted for the past 15 years by approximately 95 physical obstacles, including 19 permanently staffed checkpoints.[26] Consequently, access to educational and health-care institutions has been severely impeded, many Palestinian shops, as well as the city's main vegetable and wholesale markets, which are located in the closed areas, have been shut down and thousands of Palestinians have been compelled to move out of their homes.[27]

24. Since October 2015, following a series of attacks and clashes, Palestinians' movement in H2 has been further restricted. The area of Tel Rumeida was declared a closed military zone on 29 October and two of the checkpoints leading to the area have since become accessible only to Palestinian residents registered in advance with Israeli authorities.[28]

Movement restrictions linked to the wall and the "seam zone"

25. The wall is a key obstacle to freedom of movement in the West Bank. The International Court of Justice, in its advisory opinion on the legal consequences of the construction of the wall in the Occupied Palestinian Territory, recognized as illegal those sections of the wall that depart from the Green Line. To date, however, approximately 64.2 per cent of the projected 712 km-long wall has been completed, 85 per cent of which runs through the West Bank.[29] The Secretary-General has described how the gate and permit regime, which regulates access to the "seam zone", impedes the rights of the approximately 11,000 Palestinians residing there from living normal lives and enjoying the right to work, family life and medical treatment (see A/68/502, para. 23).

26. During the reporting period, the High Court of Justice of Israel issued a decision permitting resumption of the construction of a section of the wall in the Wadi Cremisan

[25] B'Tselem, statistics on settlements and settler population for May 2015, available from www.btselem.org/settlements/statistics.

[26] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", November 2015, p. 4.

[27] Global Protection Cluster, "Protection concerns and humanitarian impacts of settlement activity in Hebron city", April 2014.

[28] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", November 2015, p. 4.

[29] Office of the United Nations Special Coordinator for the Middle East Peace Process, "Report to the Ad Hoc Liaison Committee", September 2015, para. 38.

area of Beit Jala, near Bethlehem. Preparation for construction began on 17 August 2015.[30] That section of the wall will cut the town off from 3,000 dunams of agricultural land belonging to 58 Palestinian families, which provides the community with an indispensable source of income.[31]

27. While Israeli authorities have committed to the construction of agricultural gates to facilitate farmers' access to their lands, access is expected to be limited.[32] Of the 85 agricultural gates built to facilitate Palestinians' access to agricultural land in the "seam zone", only nine are open daily.[33] As a result, many farmers have been forced to give up farming their land or have switched to lower-yielding and less-labour-intensive crops.

28. According to the military orders governing the West Bank, Israeli citizens require an Israel Defense Forces permit to enter Area A — the Palestinian urban centres under full Palestinian Authority control, covering 18 per cent of the West Bank.

Isolation of East Jerusalem from the rest of the West Bank

29. During the reporting period, Israeli authorities continued to implement restrictions isolating East Jerusalem from the rest of the West Bank and restricting movement within East Jerusalem. Palestinians residing in East Jerusalem are required to hold Israeli-issued ID cards granting bearers the status of "permanent resident". These ID cards can be revoked if the authorities determine that Jerusalem ceases to be the bearer's "centre of life" (see A/68/502, para. 28). Hence, Palestinians in East Jerusalem who wish to travel abroad for long periods of time, whether for employment or other reasons, risk losing their residency.

30. Palestinians from the West Bank and Gaza are required to obtain special permits to enter East Jerusalem and Israel, and can enter the city only through four established checkpoints.[34] The isolation of East Jerusalem, traditionally an important centre for Palestinian economic, cultural and social activity, has a serious impact on surrounding communities.

31. On 14 October 2015, following a series of attacks and clashes, the Israeli authorities imposed further movement restrictions on residents of neighbourhoods in East Jerusalem. As at 26 October 2015, there were 38 new obstacles, including 16 checkpoints, 20 roadblocks and one earth mound blocking the entry into and exit from the main Palestinian residential areas, curtailing the access of approximately 138,000 residents to work, school and medical treatment.[35] Some obstacles were being dismantled at the end of the reporting period.[36]

32. While the Government of Israel has a right to put in place necessary and proportionate security measures in response to specific security threats, systematically restricting the movement of thousands of Palestinians in the manner described above is prima facie disproportionate to the aim pursued.

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[30] Society of St. Yves, *The Last Nail in Bethlehem's Coffin: the Annexation Wall in Cremisan*, August 2015.

[31] B'Tselem, "Barrier to separate Beit Jala residents from their lands, laying groundwork for annexing settlement", 12 November 2015.

[32] Ibid.

[33] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", September 2015, p. 6.

[34] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", July 2015, p. 6.

[35] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report for 20-26 October 2015. Available from www.ochaopt.org/poc20october-26october-2015.aspx

[36] Ibid., weekly update, 17-23 November 2015.

Checkpoints

33. During the reporting period, there were 85 fixed checkpoints in the West Bank. Nine of those checkpoints were on the Green Line, while all others were located within the West Bank.[37] In addition, hundreds of "flying" checkpoints were erected each month on roads throughout the West Bank. Together with roadblocks, trenches and earth mounds, the checkpoints severely impede Palestinians' movement, including between main Palestinian cities in the West Bank.

34. Access through checkpoints is often accompanied by rigorous security checks, including vehicle inspections and bag searches, resulting in long delays. At Qalandia checkpoint — the main crossing point for West Bank Palestinians into East Jerusalem — it takes pedestrians up to 90 minutes to cross during peak times.[38] Long waiting times, uncertainties at the checkpoints and frequent clashes disrupt many aspects of Palestinians' daily life.

3. Restrictions on movement affecting Gaza

35. The ongoing blockade and permit regime restricts access by Gazan residents to the West Bank and Israel. Within Gaza, movement is restricted in areas along the fence with Israel and at sea, with the Israeli security forces maintaining a buffer zone. For a detailed update on movement restrictions in Gaza, see the 2015 report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/70/421).

Restrictions on movement between Gaza and the West Bank

36. In accordance with the Oslo Accords, Israel opened a "safe passage" route in October 1999, allowing 12,000 residents of Gaza to travel to the West Bank each month. However, that route was closed in September 2000, following the outbreak of the second intifada. By March 2005, five months before the evacuation by Israel of the settlements in Gaza, travel to the West Bank from Gaza had declined by 98 per cent.[39] Movement of people was cited as "virtually impossible and expensive".[40]

37. After Hamas took over Gaza in 2007, a strict quota system was imposed. Obtaining permits became limited to specific categories of persons, such as individuals in need of emergency medical evacuations, medical referral patients, certain businessmen and humanitarian cases (see A/70/421, paras. 23-25).

38. During the reporting period, restrictions on movement in and out of Gaza remained in place. The easing of some measures (see para. 18 above) had a tangible effect, increasing the monthly average of exits of Palestinians to 13,800, up from a monthly average of 5,990 during 2014.[41] However, this represents only 2.8 per cent of the half a million exits recorded monthly prior to September 2000, before restrictions were tightened and when around 26,000 workers from Gaza were entering Israel on a daily basis.[42]

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[37] Ibid., *Humanitarian Atlas 2015*, p. 53.

[38] Ir Amim, *Displaced in Their Own City: the Impact of Israeli Policy in East Jerusalem on the Palestinian Neighbourhoods of the City Beyond the Separation Barrier*, June 2015, p. 48.

[39] B'Tselem and HaMoked, *One Big Prison*.

[40] Office for the Coordination of Humanitarian Affairs, "The agreement on movement and access: one year on", November 2006.

[41] Office for the Coordination of Humanitarian Affairs, "Erez crossing: movement of People into and out of Gaza", 2014-2015. See gaza.ochaopt.org.

[42] Gisha, "Separating land, separating people", June 2015, p. 12; and "Rafah crossing: who holds the

39. The effects of Israeli restrictions on freedom of movement have been exacerbated by the closure of Rafah crossing by the Egyptian authorities on 24 October 2014, following a suicide attack on Egyptian soldiers in the Sinai peninsula (see A/70/421, para. 29). During the reporting period, the crossing at Rafah remained closed except for on 37 partial opening days.[43] At the end of October 2015, an estimated 30,000 Palestinians registered as humanitarian cases were waiting to leave Gaza through Rafah.[44]

40. The blockade on Gaza remains a form of collective punishment and undermines civil, political economic, social and cultural rights (see A/70/421, para. 29).

Restrictions on movement within Gaza

41. Israeli authorities have continued to impose a buffer zone within Gaza on land and at sea, in the form of access-restricted areas. Restrictions are enforced through a range of mechanisms, including the use of live fire and the destruction, damage and confiscation of property, as well as arbitrary arrest and detention (see A/70/421, paras. 30-38).

42. During the reporting period,[45] according to the Global Protection Cluster three Palestinians, including one child, were shot dead and 82, including 17 children, were injured by Israeli security forces in land-based access-restricted areas. In addition, 54 fishermen, including four children, were detained and 20 were injured, including one child.

43. The enforcement measures used by the Israeli authorities against residents living and working in access-restricted areas significantly undermine the right of Palestinian fishermen and farmers to a livelihood, and have a devastating impact on the rights to life and to physical and mental health.

C. Impact of freedom of movement restrictions on other human rights

44. Restrictions on freedom of movement result in Palestinians' inability to enjoy a wide range of other human rights, particularly those related to economic, social and cultural rights.[46]

1. Right to education

45. Access to education has been most restricted among East Jerusalem communities beyond the wall, the H2 area of Hebron, the "seam zone" and in the vicinity of closed zones and settlements in Area C. A survey of 33 communities carried out in 2015 showed that almost one in five students in the West Bank must pass a checkpoint to reach school.[47] Body and bag searches are frequent, and schoolchildren and teachers are subject to regular harassment, including verbal intimidation, by Israeli soldiers.

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keys?", March 2009.

[43] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report for 27 October-2 November 2015. Available from www.ochaopt.org/poc27october-2november-2015.aspx.

[44] Ibid., "Gaza crossings' operations status: monthly update — October 2015".

[45] This excludes the period starting 9 October 2015, when 14 demonstrators were killed and hundreds were injured.

[46] See the advisory opinion of the International Court of Justice, para. 134. Civil and political rights are also affected. During the reporting period, OHCHR continued to monitor the case of four elected members of the Palestinian Legislative Council representing East Jerusalem who have been banned from entering their constituency, in violation of political participation rights (see A/67/372, paras. 39-40).

[47] Office for the Coordination of Humanitarian Affairs, *2016 Humanitarian Needs Overview: Occupied Palestinian Territory*, annex 1, p. 27. See www.ochaopt.org/documents/hno_december29_final.pdf.

46. In remote parts of Area C, many schoolchildren must walk 7-10 km to reach school owing to restrictions on movement, displacement and demolitions.[48] Oftentimes, the difficulties of the commute to school are exacerbated by harassment and attacks by Israeli settlers and soldiers. During the reporting period, the United Nations Children's Fund documented 247 cases of attacks on education, including physical assault, detention and checkpoint harassment and delays, affecting 32,055 children. The majority of incidents were documented in Area C, East Jerusalem and H2, where children go to school in close proximity to Israeli settlements.

Box 1

Case study: movement restrictions on school children in H2

Qurtuba School is situated in the old city of Hebron, in the H2 area. The journey to school requires students to cross a military checkpoint and walk past a settlement. Harassment, intimidation and violence from settlers, delays, bag and body searches, and abuse by soldiers are regular occurrences. During the past several years, international organizations have been providing protective presence to schools located in the area. Their presence has reduced checkpoint delays and settler violence.

On 29 October 2015, pursuant to military orders, the whole of Tel Rumeida area and Shuhada Street were declared a closed military zone, with entry into the area limited to residents recorded on soldiers' checklist. In addition, individuals or entities providing a protective presence have since been barred from accompanying children to Qurtuba School. Since then, an increase in settler harassment against students has been reported, with some settlers pointing guns and driving past children at high speed. Delays and harassment by soldiers at the checkpoint have also reportedly increased.

The situation has reinforced a sense of fear among children and teachers in an already coercive and dangerous environment. The school's headmaster noted that since the denial of a protective presence, "even teachers do not feel comfortable coming to school, due to fear of both settlers and soldiers". More than one fifth of the students did not attend school during the last days of October. According to OHCHR, the incidents have affected the well-being of students, some of whom have reportedly suffered nightmares and bedwetting.

47. The negative effects of restrictions on access to education are compounded by the limitations imposed on access to Palestinian schools by the Ministry of Education of the State of Palestine. According to the Ministry, in the "seam zone", for example, the permit regime restricts access so that the Ministry cannot effectively deliver school textbooks and furniture. In Gaza, owing to restrictions on imports, educational institutions face difficulties in acquiring teaching and learning materials, particularly for subjects like chemistry and engineering, which require items included on the "dual-use items" list.[49] These various limitations affect the availability and quality of education.

48. Movement restrictions also affect higher education. In the West Bank, Palestinian students' access to universities is impeded by checkpoints and road closures, and students can face long daily commutes if they wish to study in a university outside their immediate residential area. Al-Quds University has reported that, during the past three years, at least 38 of its students have been forced to postpone their final exams after being delayed at checkpoints. Restrictions on higher education are even more pronounced in Gaza. In 1998,

[48] Ibid.

[49] United Nations Educational, Scientific and Cultural Organization, *Rapid Assessment of Higher Education Institutions in Gaza: Data Analysis Report*, January 2015.

approximately 1,000 Gazan students were studying in the West Bank.[50] Since the outbreak of the second intifada in 2000, sweeping bans on travel to the West Bank have been imposed on university students from Gaza, and all requests to travel for study purposes have since been rejected, even in the absence of security concerns.[51]

49. On 16 February 2015, COGAT announced that the Government of Israel would introduce measures to ease travel restrictions, including by granting exit permits to 50 Gazan students wishing to study in the West Bank. However, the authorities retracted the decision on 18 February 2015, citing a "clerical error".[52]

50. The impact of the ban is exacerbated by the obstacles that Gazan students face in accessing education outside the Occupied Palestinian Territory. In December 2014, Israel announced that it would allow up to 140 students from Gaza to study abroad, subject to a maximum quota of 30 per week.[53] During the reporting period, 161 students left through Erez crossing, but hundreds more remained unable to reach their academic institutions, risking losing their scholarships owing to delays and the denial of permits.

51. The inability of students to access higher education in other parts of the Occupied Palestinian Territory or abroad affects the free choice of a university course, with a commensurate impact on future careers and livelihoods. For example, in Gaza, many important programmes, including medical engineering and doctoral programmes in chemistry, are not available.[54]

2. Right to health

52. The availability, accessibility and quality of health services in the Occupied Palestinian Territory are impaired by the restricted movement of patients, doctors and other medical staff.

53. Owing to the limited capacity in hospitals run by the Ministry of Health of the State of Palestine, patients requiring specialized treatment or surgery are often referred for treatment outside of their usual area of residence. In Gaza, reliance on referrals for adequate medical care is particularly acute (see A/70/421, para. 24). There are only four oncologists to treat the 12,600 cancer patients in Gaza (cancer is the second leading cause of death in Palestine). In addition, the World Health Organization (WHO) notes that only two cardiac surgeons are available, as a result of which some 70-80 patients per month need to be treated outside Gaza.

54. Most Palestinians from the West Bank or Gaza requiring health care in East Jerusalem, Israel or abroad must apply for an Israeli-issued permit. While Israel imposes no age or quota restrictions on the process of obtaining a health permit,[55] 15-30 per cent of the applications are delayed or never approved, and the application process is reportedly slow and complicated.[56]

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[50] Gisha, "Student travel between Gaza and the West Bank 101", September 2012.

[51] The Israeli army considers people aged between 16 and 35, and students in this age group in particular, as posing a general threat because of their "risk profile". Gisha, "Legal framework: higher education — rights and obligations under international and Israeli law", May 2010.

[52] Gisha, "Israel will not permit students from Gaza to study in the West Bank", February 2015.

[53] ; 37 orphans stayed home", December 2014.

[54] Ibid., "The impact of the separation between the Gaza Strip and the West Bank on higher education", May 2010.

[55] COGAT, "Status of permits", p. 21.

[56] Physicians for Human Rights, *Divide and Conquer: Inequality and Health*, January 2015, p. 76.

55. According to the General Authority for Civil Affairs of the State of Palestine, of the 173,835 applications that were received through West Bank district offices by patients and patient-companions during the first 11 months of 2015, 18 per cent were reportedly either delayed or denied.

56. WHO estimates that at least 1,500 patients travel from Gaza to the West Bank and Israel each month to receive specialized medical treatment. The approval rates dropped significantly during the last months of the reporting period, from around 80 per cent in the first eight months down to 69.85 per cent in October 2015. This represented the lowest approval rate since October 2009, with the exception of the period of escalation in 2014. As at 8 October 2015, the Ministry of Health in Gaza reported that 1,180 patients had been waiting for medical treatment outside of Gaza since the beginning of 2015.

57. Over the past three years, the number of applications for patient permits by Palestinians from Gaza nearly doubled, from around 1,000 per month in early 2013 to around 2,000 between May and September 2015.[57] This increase occurred during a period in which patients' access to medical care in Egypt through the Rafah crossing became increasingly restricted.[58]

58. Patients whose applications for medical permits for urgent and specialized care are rejected or delayed have no choice but to repeat the lengthy application process, or to accept less specialized and inadequate care. This delay can place patients, particularly those in need of urgent care, at serious risk of further damage to their health or even death.

59. For those who receive a permit to cross, Israeli security forces can unpredictably deny access to patients, or can detain patients for interrogation or arrest on a charge.[59] Four patients and their companions were thus arrested by Israeli security forces at Erez during the reporting period.[60]

Box 2

Case study: movement restrictions on patients from Gaza

Medical patients in Gaza frequently experience denial or delay of care owing to the permit regime and the system of referrals.

OHCHR monitored the case of Haytham Mohamad Ghazi Shurrab, aged 22, who fell ill during the escalation of hostilities in Gaza in 2014. Following several visits to hospitals in Gaza, Mr. Shurrab was referred to a health facility in Cairo, where he was diagnosed with cancer and began treatment. Mr. Shurrab returned to Gaza in January 2015. By April, it became clear that the treatment was not working. He received a permit to attend a hospital in Tel Aviv for a scan, returning to Gaza after one day. Following the results of the scan, his treatment was adjusted but had to be stopped in June 2015 owing to swelling in his abdomen. Mr. Shurrab was referred to Al-Naja hospital in Nablus but after two weeks he received a rejection letter indicating that the type of treatment he needed was not available there.

[57] WHO, monthly report for September 2015. Available from www.emro.who.int.

[58] Ibid.

[59] WHO, "Report of a field assessment of health conditions in the Occupied Palestinian Territory", April 2015.

[60] WHO, monthly reports covering the period November 2014-September 2015.

Concerned about further delay in care, Mr. Shurrab's father appealed directly to the President of the State of Palestine, Mahmoud Abbas, asking that his son be referred to an Israeli hospital where the necessary treatment was available. Mr. Shurrab received a referral from the Ministry of Health in July 2015. He obtained an appointment for 5 August 2015 at a hospital in Tel Aviv and applied for a permit. On 4 August, he was informed that his exit permit was still under security review. He consequently missed his appointment and a new appointment was set for 9 September 2015. Mr. Shurrab died at the end of August 2015. His father was informed by the Civil Affairs Committee on 8 September that the permit had been granted.

60. Access to treatment is also impeded by physical restrictions on movement, including checkpoints. The checkpoints and roadblocks controlling entry to and movement within East Jerusalem since 14 October 2015 have restricted access to the six Palestinian hospitals located there, which provide a range of specialized treatment unavailable elsewhere in the West Bank and Gaza. The closures have prevented staff from getting to work and delayed and prevented patients' access to hospital treatment.[61] OHCHR monitored the case of a 65-year-old Palestinian woman with respiratory problems who died on the way to hospital on 19 October. Police had closed the road leading to the hospital, and further delays at a checkpoint hampered her access to life-saving medical care.

61. Movement restrictions compromise the quality of treatment available in health centres. Al-Quds University, in the Abu Dis district of East Jerusalem, hosts one of two medical schools in the West Bank. Clinical training for Al-Quds University students takes place primarily at Palestinian hospitals in East Jerusalem. The construction of the wall in Abu Dis separated the medical faculty from the rest of East Jerusalem. Every year, about 10 per cent of students from Al-Quds University are refused entry to East Jerusalem by the Israeli Civil Administration.[62] These restrictions limit training opportunities for medical students and staff and therefore affect the quality of medical care.

3. Right to work

62. Restrictions on movement adversely affect the right of Palestinians to work and to maintain an adequate standard of living.

63. In the West Bank, physical barriers and the permit regime particularly affect the agricultural sector, which has traditionally been the main source of employment and income for Palestinians in the West Bank. The restrictions imposed on Palestinians' access to their land in the "seam zone" and in the vicinity of settlements prevent farmers from regularly farming their lands, resulting in a drop in crop productivity and value. For example, the yield of olive trees in the zone is 40-60 per cent less than that of olive trees on the West Bank side of the wall.[63]

64. Restrictions on the movement of goods and people also affect Palestinian trade. All goods moving from the West Bank through, to and from Israel, must undergo physical inspection and commercial controls. According to the World Bank, in 2013 it took approximately 23 days to export goods from the West Bank and 38 days to import them. By

[61] Statement of Augusta Victoria Hospital on behalf of the East Jerusalem Hospital Network, 20 October 2015.

[62] Physicians for Human Rights, *Divide and Conquer*, p. 76.

[63] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", February 2014, p. 9.

way of comparison, imports and exports took on average 10 days for Israeli traders.[64] Such restrictions have a severe impact on the competitiveness of Palestinian firms, thus limiting employment in the Palestinian private sector.

65. Although still subject to severe restrictions, the situation in Gaza has improved. Since November 2014, Israel has begun allowing a limited quantity of goods to be sold to the West Bank and Israel, including agricultural produce, textiles, iron works and furniture.[65] This easing has allowed the entry of 908 truckloads during the first 10 months of 2015 compared to 228 in 2014.[66] However, the current rates remain at around 15 per cent of pre-blockade levels.[67] Moreover, restrictions on imports to Gaza of items classified as "dual-use" have weakened Palestinian productive sectors, especially in the metal,[68] engineering, agriculture, food and pharmaceutical industries.[69] In April 2015, wooden boards thicker than 5 cm and wider than 20-25 cm were added to the dual-use list, and their import to Gaza was restricted.[70] On 3 August 2015, wooden boards thicker than 1 cm were included.[71] These new restrictions on wood imports have affected Gazan furniture factories and businesses, which have been forced to cut the number of staff and working hours.[72]

Palestinian workers in Israel and in settlements

66. Palestinian workers from the Occupied Palestinian Territory have long sought work opportunities inside Israel. Before 1993, some 115,000 Palestinians — one third of the workforce — worked in Israel, and unemployment was at 5 per cent.[73] Restrictions on trade and the movement of people have had a long-lasting, damaging effect on the Palestinian economy, resulting in high unemployment and aid dependency. While unemployment in the reporting period saw a slight decline compared to 2014, one quarter of the Palestinian labour force remains unemployed. In Gaza, the unemployment rate was 42 per cent.[74] High unemployment rates and economic stagnation affect the standard of living. Poverty in the Occupied Palestinian Territory during 2014 reached 25 per cent, with rates in Gaza at 39 per cent.[75] This situation has increased dependency on work in Israel, despite restrictions.

67. By September 2015, 57,450 Palestinians from the West Bank held permits to work in Israel, which, according to COGAT, is the highest number since the permit system was

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[64] World Bank, *West Bank and Gaza Investment Climate Assessment: Fragmentation and Uncertainty*, 2014, pp. 32-39.

[65] Gisha, "For the first time since the closure: a truckload of cucumbers left" (6 November 2014); and "Israel will allow marketing of ironworks, furniture and textile from Gaza in Israel", 21 September 2015.**Error! Hyperlink reference not valid.**

[66] Office for the Coordination of Humanitarian Affairs, online Gaza crossings database.

[67] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, 30 September 2015.

[68] According to the Palestinian Federation of Industries in Gaza, 90 per cent of metal materials are listed as dual-use and banned from entry into Israel, affecting 1,200 factories. See also *Al-Monitor*, "Gazans scavenge for food, recyclables", 13 May 2015.

[69] United Nations Conference on Trade and Development, *The 2013 World Trade Organization Agreement on Trade Facilitation: Israel's Obligations towards Palestinian Trade*, 2015, pp. 7-10.

[70] Gisha, "COGAT decision to restrict entrance of wood to Gaza" (13 April 2015).

[71] Israel, Ministry of Defense, instructions regarding the ban on bringing items into the Gaza Strip, 3 August 2015. See also http://gaza.ochaopt.org/2015/09/import-restrictions-impede-delivery-of-services-and-humanitarian-assistance.

[72] Gisha, "Marketing of furniture from Gaza in Israel permitted–, wood to make the furniture is not", 2 November 2015.

[73] See www.btselem.org/workers.

[74] World Bank, *Economic Monitoring Report*, p. 4.

[75] Ibid.

introduced in the early 1990s.[76] A further 25,957 permits were issued for work in settlements.[77]

68. Permits to enter and work in Israel can be suddenly and arbitrarily revoked. For example, in June 2015, Israeli authorities cancelled all entry permits to Israel for Palestinians from the West Bank village of Sa'ir, apparently in an act of collective punishment after a Palestinian man from the village attacked a border police officer in East Jerusalem.[78]

69. While restricting Palestinian workers' access to work in Israel is not in and of itself a violation of international standards, such restrictions must be viewed in the overall context of the occupation and the violations of international human rights and humanitarian law accompanying it. Disproportionate Israeli restrictions on movement and trade have significantly contributed to the grave economic hardship in the West Bank and Gaza, which has interfered with access to livelihoods and work in the Occupied Palestinian Territory.

4. Right to family life

70. Restrictions on freedom of movement impede Palestinians' enjoyment of the right to family life and to protection of the family unit. According to a poll conducted by Gisha in 2013, almost a third of all Palestinians in Gaza had relatives in the West Bank, including East Jerusalem, or Israel.[79] Yet, under the current closure and permit regime, only those needing to visit a gravely ill, first-degree relative or to attend the wedding or the funeral of first-degree relatives may obtain approval to travel between Gaza and the West Bank. Even when narrow permit criteria are satisfied, approval remains uncertain owing to quotas and lengthy procedures.[80]

71. While it is difficult to obtain approval for family-related visits to the West Bank, permission for family reunification is nearly impossible. Relocation to the West Bank is limited to applicants satisfying one of three narrowly defined categories: minors under the age of 16 who have lost a parent in Gaza, elderly people in need of nursing care who have no first-degree relative to care for them and chronically ill patients. Being married to someone from the West Bank or having children living there is not considered sufficient to allow relocation.[81]

72. Restrictions on movement also prevent Palestinians who are from the West Bank or Gaza and who are married to Israeli or East Jerusalem residents from realizing their right to family life. In June 2015, the Knesset extended for another year the Citizenship and Entry into Israel Law, issued as a temporary order in 2003.[82] The law prohibits Palestinians from the West Bank and Gaza from obtaining permanent or temporary resident status in East Jerusalem or Israel, even when they are married to citizens or residents of Israel.[83] In few

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[76] COGAT, "Status of permits", p. 21.

[77] International Labour Office, *The Situation of Workers of the Occupied Arab Territories*, May 2015, para. 36.

[78] Natasha Roth, "Israel responds to lone attacks with collective punishment", *+972 Magazine*, 22 June 2015.

[79] Gisha, "Survey: 31 per cent of Gaza residents have relatives in Israel, East Jerusalem, West Bank" (19 December 2013).

[80] Gisha, "Distant relatives", July 2015. See http://features.gisha.org/distant_relatives.

[81] B'Tselem and HaMoked, *So Near and Yet So Far: Implications of Israeli-imposed Seclusion of Gaza Strip on Palestinians' Right to Family Life*, January 2014, pp. 12-15.

[82] HaMoked, "With no end in sight: for the sixteenth time, the Knesset has approved the prolongation of the Citizenship and Entry into Israel Law", 15 June 2015.

[83] HaMoked, *Temporary Order?: Life in East Jerusalem under the Shadow of the Citizenship and Entry*

cases, West Bank ID-holders have been granted permission to reside in Israel pursuant to renewable Israeli stay permits valid for one year at a time[84] — while family reunification with individuals from Gaza is completely prohibited pursuant to a 2008 Israeli military order.[85] Thus, the only option available for mixed families is to live in Gaza while maintaining ties to relatives in Israel — an option that Israel has facilitated since 1995 under the "split-family procedure". On 23 July 2015, following the disappearance of two Israelis who had entered Gaza without coordination or a permit, a decision was made to freeze the travel of Israelis and East Jerusalem residents to Gaza until further notice.[86] The ban creates an impossible situation for hundreds of split families living between Gaza and Israel.

73. The almost-total denial by Israel of family reunification for Palestinian or Palestinian-Israeli families and the lack of consideration for individual circumstances violate the right to family life and the prohibition of discrimination, since it makes an arbitrary distinction between mixed families involving Palestinians and other foreign nationals and carries undertones of ethnic prejudice.[87]

D. Impact of Palestinian disunity on human rights, including freedom of movement

74. Notwithstanding the obstacles imposed by the Israeli occupation, including movement restrictions, Palestinian duty bearers have, to the greatest extent possible, an obligation to respect, protect and fulfil the human rights of all people under their authority. This obligation has been underscored by the recent accession by the State of Palestine to seven international human rights treaties. It follows that the Government of the State of Palestine has both positive obligations to protect human rights in the Occupied Palestinian Territory and a duty to seek to mitigate the negative impact of the Israeli occupation to the extent that it can.[88]

75. In this context, the Secretary-General is particularly concerned about the negative impact of the eight-year intra-Palestinian political division between Hamas and Fatah. Palestinian disunity exacerbates the fragmentation of Palestinian territorial integrity in a way that is similar to the effect of Israeli restrictions on free movement, and thereby contributes to undermining a broad range of human rights (see A/HRC/28/45, para. 59).

76. OHCHR has received reports that the Ministry of the Interior of the State of Palestine, following instructions from the General Intelligence Service, has halted the

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into Israel Law, September 2014.

[84] Pursuant to the 2005 amendment to the Citizenship and Entry into Israel Law, applicants must satisfy minimum age requirements: 25 years for women, 35 years for men. Entry can be prevented if the applicant or anyone in his or her family is considered a security threat (HaMoked, *Temporary Order?*, pp. 21-24).

[85] HaMoked, *Temporary Order?*, p. 29.

[86] Letter addressed to the Minister of Defense of Israel, Moshe Ya'alon regarding the ban on entry into Gaza by Israelis, 4 August 2015. Available from http://gisha.org/UserFiles/File/letters/letter_to_yaalon_COGAT_Israelis_11.8.15-eng.pdf.

[87] See CERD/C/ISR/CO/14-16, para. 18. See also CCPR/C/ISR/CO/3, para.15; CEDAW/C/ISR/CO/5, para. 25; and CRC/C/ISR/CO/2-4, para. 49. In 2012, in a Supreme Court ruling concluding that Israeli national security prevails over the right to family life, the then Chief Justice of Israel said: "human rights cannot be enacted at the price of national suicide". See https://www.opensocietyfoundations.org/litigation/adalah-v-israel.

[88] See, for example, Human Rights Committee general comment No. 31 (2004) on the nature of the legal obligation imposed on States parties to the Covenant, para. 2.

issuance and renewal of passports of Palestinians alleged to be affiliated with Hamas.[89] During the reporting period, the Palestinian Independent Commission for Human Rights received four complaints from Palestinians from Gaza whose passport applications were reportedly denied.

77. Also of concern are reports received during the reporting period that Gazan security services have banned Gaza residents from leaving through Erez without judicial orders. According to the Independent Commission for Human Rights, on three occasions members of the Fatah Central Committee and the Fatah Revolutionary Council were denied permission to travel outside of Gaza. On 28 December 2014, the Gazan authorities at the checkpoint reportedly prevented 37 children between 5 and 12 years of age, orphaned as a result of the 2014 escalation of hostilities, and five adult chaperones from exiting Gaza to visit Israel and the West Bank.[90] The authorities claimed that the children were denied travel to protect their culture and safeguard them from the normalization of ties with Israel.[91]

78. Palestinian political divisions have also had a broader negative impact on Palestinians' enjoyment of their civil and political rights. Among the acts of concern monitored by OHCHR during the reporting period are the excessive use of force, the arbitrary arrest and detention of political activists, the use of torture and other ill-treatment and restrictions on freedom of expression (A/HRC/31/40).

79. Political divisions further hinder the realization of economic, social and cultural rights. The continued non-payment of civil servants recruited by the authorities in Gaza is particularly problematic. At least 40,000 civil servants and security personnel have not received a salary, only occasional humanitarian payments, since April 2014.[92]

80. This has, in turn, negatively affected access to education, health and social welfare, among other aspects. In Gaza, the health sector recorded an absenteeism rate of approximately 50 per cent in January 2015, especially as staff could not afford transportation costs.[93] In December 2014, 750 cleaning personnel at the Ministry of Health in Gaza went on a 16-day strike because they had not been paid for six months. Consequently, cleaning services for 13 hospitals and 56 health centres were halted, and the Ministry of Health suspended some medical services, including obstetric and gynaecological services.[94]

IV. Recommendations

A. Recommendations to the Government of Israel

81. **Under international human rights and humanitarian law, the Israeli authorities have the obligation to facilitate the free movement of Palestinians within the Occupied Palestinian Territory, including East Jerusalem. Any exception must comply with international law, which means that restrictions are justified only for imperative reasons of security and only in response to a specific security threat. Israel should lift**

[89] See afa.ps/post/146208 (Arabic).
[90] Gisha, "Thirty-seven students travelled abroad".
[91] See http://alray.ps/ar/index.php?act=post&id=130062 (Arabic).
[92] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin" , January 2015, p. 1.
[93] Ibid., pp. 4-5.
[94] Ibid.

the blockade on Gaza in accordance with international human rights law and Security Council resolution 1860 (2009), and allow movement between Gaza and the West Bank. Israel should also remove physical restrictions on free movement throughout the West Bank, including East Jerusalem, and ensure that all relevant administrative rules and requirements are consistent with international human rights and humanitarian law.

82. **The right to education must be respected and protected, including by facilitating free, safe and unhindered access to schools. The blanket ban on students from Gaza to access education in the West Bank must be lifted.**

83. **Steps should be taken immediately to remove barriers to freedom of movement that prevent medical personnel from carrying out their duties. All unnecessary or disproportionate barriers hampering Palestinians' access to medical treatment must be lifted without delay, including in Israel and East Jerusalem.**

84. **Steps must be taken to ease the restrictions on economic development in the Occupied Palestinian Territory, including by immediately allowing greater freedom of movement of goods and people, and lifting restrictions that prevent Palestinians from accessing land and developing their economy.**

85. **Israeli authorities must recognize and respect the residency rights of Palestinians, including by immediately halting the practice of revoking residence permits, ending the freeze on changes to addresses, removing any quotas on family reunification requests, and processing backlogged requests and new requests expeditiously.**

B. Recommendations to the Palestinian authorities

86. **The Palestinian authorities must implement their obligations under international human rights treaties, including with regard to freedom of movement.**

87. **The Palestinian authorities should take steps to encourage national political parties to resolve the political disunity that obstructs the equal implementation of the human rights obligations of the Government of the State of Palestine throughout the Occupied Palestinian Territory.**